

## **REMARKS**

Applicants request favorable reconsideration of this application in view of the foregoing amendments and the following remarks. Claims 1-22 were pending in the application and were rejected in the Office Action. By way of this amendment, Applicants have canceled claims 13-22, without prejudice or disclaimer. In addition, Applicants have amended claims 1, 2, and 4-12 and have presented new claims 23 and 24. Accordingly, claims 1-12, 23, and 24 are presented for reconsideration.

### **1. Rejection of Claim 5 under 35 U.S.C. § 112, ¶ 2**

The Examiner rejected claim 5 under 35 U.S.C. § 112, ¶ 2 “as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.” Specifically, the Examiner noted that the recitation of “the collar” in claim 5 lacked antecedent basis. Applicants submit that the lack of antecedent basis has been resolved by amending claim 4 (from which claim 5 depends) to depend from claim 2. Accordingly, Applicants respectfully request a withdrawal of the rejection of claim 5 under § 112, ¶ 2.

### **2. Rejections under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a)**

The Examiner rejected the following claims under 35 U.S.C. § 102(b):

- (a) claims 1, 3, 4, 8, 11, and 12 as being anticipated by Australian Patent No. 9,735,291 (“Taylor”);
- (b) claims 1-3, 6, 8, 10, and 11 as being anticipated by FR 2,706,163 (“Ballu”);
- (c) claims 1, 3, 6, and 8-10 as being anticipated by U.S. Patent No. 3,887,091 (“Buck”);
- (d) claims 1, 6-10, and 12 as being anticipated by (or obvious under 35 U.S.C. § 103(a) in view of) U.S. Patent No. 4,511,009 (“Kataoka”);
- (e) claims 1-6, 8, 12, 13, 15-19, and 22 as being anticipated by (or obvious under 35 U.S.C. § 103(a) in view of) SU 619,425 (“Orchard Vineyard”) and
- (f) claims 1, 3, 4, 8, 9, and 12 as being anticipated by (or obvious under 35 U.S.C. § 103(a) in view of) U.S. Patent No. 5,865,590 (“Lilley”)

The Examiner also rejected the following claims under 35 U.S.C. § 103(a):

- (a) claims 2, 5, 13, 15, 16, 18, and 22 as being obvious over Lilley in view of U.S. Patent No. 6,568,567 (“McKenzie”);

- (b) claims 2 and 13-21 as being obvious over Kataoka in view of McKenzie;
- (c) claims 3, 4, 9, and 22 as being obvious over Kataoka in view of Lilley; and
- (d) claim 5 and 22 as being obvious over Kataoka in view of McKenzie and Lilley.

With respect to the rejection of claims 13-22, these rejections are now moot due to the cancellation of these claims without prejudice or disclaimer. Accordingly, Applicants will address these rejections with respect to claims 1-12.

**a. Rejections of Claims 1-7**

As previously detailed, claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by each of Taylor, Ballu, Buck, Kataoka, Orchard Vineyard, and Lilley. Applicants respectfully traverse each of these rejections.

As amended, claim 1 recites an apparatus for handling grape material which includes, among other things (*italic emphasis added*):

- a support structure;
- a receptacle configured to contain a grape material, the receptacle comprising:
  - a top opening at an upper end of the receptacle;
  - a lower outlet at a lower end of the receptacle; and
  - a screen in a lower section of the receptacle,*
- wherein the receptacle is rotatable, about a pivotal connection, with respect to the support structure; and
- an actuator for rotating the receptacle in a controlled manner from an upright position in which a fluid may be contained in the receptacle to a tipped position in which the contents of the receptacle may be emptied via the top opening.

For the following reasons, none of Taylor, Ballu, Buck, Kataoka, Orchard Vineyard, or Lilley teaches or suggests such an apparatus for handling grape material. Moreover, McKenzie fails to cure the respective and collective deficiencies of Taylor, Ballu, Buck, Kataoka, Orchard Vineyard, and Lilley.

Taylor teaches a bin 3, 13 which engages an auger 4, 14; the auger 4, 14 may include a screen through which liquid may be filtered into a collection unit in the auger housing. *See* p. 3, lines 14-19. By way of contrast, the instant invention eliminates the auger recited in Taylor. Moreover, Taylor does not teach or suggest providing a screen “in a lower section of the *receptacle*,” as recited in claim 1. Accordingly, for at least these reasons, Taylor can not be used to reject claim 1, or any claim dependent thereon, under 35 U.S.C. § 102(b).

Ballu fails to cure the deficiencies of Taylor. Applicants’ undersigned representative asked an associate with significant French language training to review Ballu’s teachings. Based on the associate’s non-certified reading of Ballu, Applicants do not believe that Ballu teaches or suggests “a screen in a lower section of the *receptacle*,” as recited in claim 1.

Buck also clearly fails to cure the deficiencies of Taylor. Specifically, Buck addresses situations in which harvested grapes are transferred from field carts 9 to a transfer bin unit 27 and then, in turn, to a highway truck 11. Both the field carts 9 and the transfer bin 27 lack “a screen in a lower section” thereof, as recited in claim 1.

Kataoka (which addresses a weighing apparatus which would be adversely affected by a screen through which quantities to be weighed were able to escape), Orchard Vineyard (which addresses a fruit transport device), and Lilley (which address a dual pivot for a receptacle) also fail to cure the deficiencies of Taylor with respect to the screen recited in claim 1.

McKenzie, which was applied (in combination with Lilley and Kataoka) to claims 2 and 5 also fails to cure the deficiencies of Taylor. Specifically, as shown in Figures 2-5, McKenzie, like Taylor, addresses an auger system which lacks a “a screen in a lower section of the receptacle,” as recited in claim 1.

Accordingly, as none of Taylor, Ballu, Buck, Kataoka, Orchard Vineyard, Lilley, or McKenzie teaches or suggests the screen recited in claim 1, the references can not be used to reject claim 1 either standing alone under § 102(b) or when combined under § 103(a). Moreover, as claims 2-7 depend from claim 1, each of these dependent claims is also allowable over Taylor, Ballu, Buck, Kataoka, Orchard Vineyard, Lilley, and McKenzie. Therefore, Applicants earnestly solicit a withdrawal of the rejections of claims 1-7 under § 102(b) and under § 103(a).

**b. Rejection of Claims 8-12**

As previously detailed, claim 8 was rejected under 35 U.S.C. § 102(b) rejected as being anticipated by each of Taylor, Ballu, Buck, Kataoka, Orchard Vineyard, and Lilley. Applicants respectfully traverse each of these rejections.

As amended, claim 8 recites a method of processing bulk quantities of grape material comprising a plurality of steps which include, among other steps (*italic emphasis added*):

- i) supplying grape material to a bulk receptacle;
- ii) allowing juice to flow from the grape material;
- iii) *extracting the juice from the bulk receptacle via a lower outlet in the bulk receptacle;*
- iv) tipping the bulk receptacle; and
- v) *ejecting the remaining grape material through a top opening in the bulk receptacle for further processing.*

For the following reasons, none of Taylor, Ballu, Buck, Kataoka, Orchard Vineyard, or Lilley teaches or suggests such a method of processing bulk quantities of grape material. Moreover,

McKenzie fails to cure the respective and collective deficiencies of Taylor, Ballu, Buck, Kataoka, Orchard Vineyard, and Lilley.

Taylor teaches a bin 3, 13 which may optionally contain a drainage means (not shown) at its base. *See* p. 3, lines 14-19. However, Taylor fails to teach or suggest using the optional drain as a means of “extracting the juice from the bulk receptacle” prior to tipping the bulk receptacle and “ejecting the remaining grape material through a top opening in the bulk receptacle,” as recited in claim 8. Accordingly, for at least these reasons, Taylor can not be used to reject claim 8, or any claim dependent thereon, under 35 U.S.C. § 102(b).

As previously mentioned, Applicants’ representative asked an associate with significant French language training to review the Ballu’s teachings. Based on the associate’s non-certified reading of Ballu, Applicants do not believe that Ballu teaches or suggests “extracting the juice from the bulk receptacle via a lower outlet in the bulk receptacle” followed by “ejecting the remaining grape material through a top opening in the bulk receptacle for further processing,” as recited in claim 8. As a result, Ballu fails to cure the deficiencies of Taylor.

Similarly, Buck also fails to cure the deficiencies of Taylor with respect to the method recited in claim 8. Rather, Buck teaches dumping grape material from a field cart 9 into a transfer bin 27 and subsequently transferring the grape material from the transfer bin 27 to a highway truck 11. Buck does not teach or suggest extracting the juice prior to dumping the grape material into either the transfer bin 27 or the highway truck 11.

Kataoka (which addresses a weighing apparatus which would be adversely affected by extracting the juice from a quantity of grape material to be weighed), Orchard Vineyard (which addresses a fruit transport device designed to transport fruit without causing injury thereto, *i.e.*, without extracting juice therefrom), and Lilley (which address a dual pivot for a receptacle) also fail to cure the deficiencies of Taylor with respect to the extracting and ejecting steps recited in claim 8.

McKenzie, which was not applied to any of claims 8-12 also fails to cure the deficiencies of Taylor. Specifically, as shown in Figures 2-5 and 7, although McKenzie has an upper opening and a lower outlet, all of the grape material deposited in the hopper 33 exits the hopper 33 via the lower outlet in the vicinity of the auger 41.

Accordingly, as none of Taylor, Ballu, Buck, Kataoka, Orchard Vineyard, Lilley, or McKenzie teaches or suggests the method recited in claim 8, the references can not be used to reject claim 8 either standing alone under § 102(b) or when combined under § 103(a). Moreover, as claims 9-12 depend from claim 8, each of these dependent claims is also

allowable over Taylor, Ballu, Buck, Kataoka, Orchard Vineyard, Lilley, and McKenzie. Therefore, Applicants earnestly solicit a withdrawal of the rejections of claims 8-12 under § 102(b) and under § 103(a).

**3. New Claims 23 and 24**

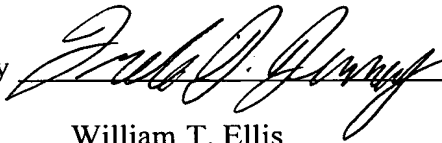
New claims 23 and 24 have been added to depend from claim 1. Support for claim 23's recitation of "wherein the lower outlet is below the screen when the receptacle is in the upright position" is clearly provided Figure 2 (as amended) and at p. 6, lines 27-34. Support for claim 24's recitation of "wherein the receptacle tapers toward the top opening" is clearly provided by the tapered portion 24 shown best Figures 1 and 2 and described at p. 5, lines 25-28.

**CONCLUSION**

For the aforementioned reasons, claims 1-12, 23, and 24 are now in condition for allowance. A Notice of Allowance at an early date is respectfully requested. The Examiner is invited to contact the undersigned if such communication would expedite the prosecution of the application.

Respectfully submitted,

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By 

Customer Number: 22428  
FOLEY & LARDNER LLP  
3000 K Street, N.W.  
Suite 500  
Washington, D.C. 20007-5143

William T. Ellis  
Registration No. 26,874  
Frederic T. Tenney  
Registration No. 47,131  
Attorneys for Applicants

Telephone: (202) 672-5300  
Facsimile: (202) 672-5399

THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY ADDITIONAL FEES WHICH MAY BE REQUIRED REGARDING THIS APPLICATION UNDER 37 C.F.R. §§ 1.16-1.17, OR CREDIT ANY OVERPAYMENT, TO DEPOSIT ACCOUNT NO. 19-0741. SHOULD NO PROPER PAYMENT BE ENCLOSED HERewith, AS BY A CHECK BEING IN THE WRONG AMOUNT, UNSIGNED, POST-DATED, OTHERWISE IMPROPER OR INFORMAL OR EVEN ENTIRELY MISSING, THE COMMISSIONER IS AUTHORIZED TO CHARGE THE UNPAID AMOUNT TO DEPOSIT ACCOUNT NO. 19-0741. IF ANY EXTENSIONS OF TIME ARE NEEDED FOR TIMELY ACCEPTANCE OF PAPERS SUBMITTED HERewith, APPLICANT HEREBY PETITIONS FOR SUCH EXTENSION UNDER 37 C.F.R. § 1.136 AND AUTHORIZES PAYMENT OF ANY SUCH EXTENSIONS FEES TO DEPOSIT ACCOUNT NO. 19-0741.